

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

WHITES LANDING FISHERIES, INC.

Plaintiff, Counter-Defendant

vs.

Case No. 3:20-cv-2740
Hon. Jack Zouhary

EDDIE C. TOWLES

Defendant, Counter-Plaintiff

**DEFENDANT EDDIE C. TOWLES' OBJECTION AND ANSWER
TO PLAINTIFF'S ANSWER AND COUNTERCLAIM**

NOW COMES Defendant Eddie C. Towles by and through his attorneys Foster Swift Collins & Smith PC, and Benesch, Friedlander, Coplan & Aronoff LPA, and hereby objects to and moves to strike Plaintiff's Counterclaim made with its Answer to Defendant's Counterclaim for the reason that Federal Rule of Civil Procedure 7 specifically limits allowable pleadings to those designated in the rule and does not allow filing of a Counterclaim by Plaintiff in response to a Counterclaim by a Defendant which raised no new, distinct claim rights held by Plaintiff. Without waiver of its objection and demand to strike Plaintiff White's Landing Fisheries' invalid Counterclaim, Defendant Towles answers as follows:

AFFIRMATIVE DEFENSES

1. Defendant Towles denies the affirmative defenses set forth in paragraphs 1, 2, 3 and 4 of the answer.

COUNTERCLAIM

1. Defendant admits.

2. Denied.

3. Denied.

4. Denied.

5. Denied.

6. Defendant admits only that he was compelled of necessity to cut the net which had entangled his engine in order to save and protect his vessel and passengers in the midst of heavy weather.

7. Defendant agrees only that Plaintiff set trap nets in the waters of Lake Erie but denies that the nets were legally positioned or that the marks were visible to Mr. Towles at the moment and time of the incident.

8. Denied.

9. Denied

WHEREFORE, Defendant Eddie C. Towles prays that all claims against him be dismissed with prejudice and that costs and reasonable attorney fees be awarded in his favor.

AFFIRMATIVE DEFENSES

Plaintiff will please take note that DEFENDANT Eddie C. Towles will rely upon the Affirmative Defenses set forth in his previously filed answer to Plaintiff's Complaint and incorporates them in full here by reference.

RELIANCE ON JURY DEMAND

Defendant relies upon the jury demand it made previously in its filed pleadings.

s/ Kelly E. Mulrane

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Dated: February 26, 2021

and

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PROOF OF SERVICE

The undersigned hereby certifies that on February 26, 2021, *Defendant Eddie C. Towles' Objection and Answer to Plaintiff's Answer and Counterclaim* was served upon the attorneys of record of all parties to the above cause by electronic service through the Court's e-filing system.

/s/ Kelly E. Mulrane